

**REMARKS**

Applicants thank the Examiner for the courtesy of a telephone interview on August 9, 2005. During the interview, Applicants' representatives James J. Barta, Jr. and Tan-Chi Yuan discussed the patentability of the claims including claim 1 in view of the cited reference Bowler et al. (U.S. Publication No. 2002/0174329) with Examiner Fowlkes. Examiner Fowlkes acknowledged his understanding of Applicants' invention. No agreement was reached. An attached exhibit was shown and no demonstration was conducted.

Applicants have thoroughly considered the Final Office action mailed on June 16, 2005. By this Amendment B, claims 1, 6, 10-12, 14-15, 27, 32, 36, and 38-41 have been amended to further set forth the invention. Reconsideration of the application as amended is respectfully requested.

*Overview*

To illustrate the differences between the present invention as claimed and the cited prior art, Applicants point out that the claimed features of the present invention are directed to dynamically obtaining update content for installing an updated operating system and applying the obtained update content to the operating system prior to installation of the operating system. In the present invention, the operating system stored on an installation media is to be installed on a destination machine. For example, a user may desire to install a new version of the operating system stored on a CD-ROM to a computer. In this example, before installing the operating system, the computer requests update content for the operating system or for any aspects relating to the installation of the operating system. The update content for the operating system is dynamically identified and obtained by the computer from one or more update media prior to installation of the operating system. The obtained update content is merged with the operating system prior to installation of the operating system. The merged operating system is then installed on the computer. In addition, the update content may also update an installing application and/or any aspect of the installation of the operating system. In this manner, the user does not need to obtain updates for the operating system after the installation of the operating system because all updates are identified and obtained by the computer and that all updates have been obtained and merged before the operating system was installed.

The present invention fixes problems prior to the problems occurring by retrieving a minimal set of the most critical fixes to improve the software setup experience and to provide stable and secure software. The present invention ensures that software installed onto a machine automatically includes the most critical updates and fixes deemed necessary for a successful installation for that particular computer. In addition, the present invention enables dynamically update when the user installs the software.

The present invention improves responsiveness for installation problems, reduces support cost by reducing product support calls, increases customer satisfaction by improving the customer's out-of-box (first user) upgrade experiences, and minimizes the download time and size by including only the most critical updates, and improves upgrade compatibility. By including important updates at installation time, the present invention improves the stability of an operating system.

In contrast, the cited art discloses the transfer of **configuration settings, not an operating system component**, from a source computing system to a target computing system for the operating system already installed on the target computing system. While the cited art teaches "a method for automatically transitioning files from a source (i.e., old) computing system to a target (i.e., new) computing system using file transition rules" (Bowler et al, paragraph 14), it fails to teach the transitioning and installation of an operating system or application program before the operating system or application program is installed on the target computing system. For example, the cited art discloses that the "the source computing system 12 controls the Extraction application 18 (FIG. 1), the User Interface application 20 (FIG. 1), and the Preparation application 22 (FIG. 1)". (Bowler et al, paragraph 47). In addition, "the operating system of 34 on the target computing system 26 controls execution of the Injection application 24 on the target computing system 26" (Bowler et al., paragraph 47). That is, the cited art specifically teaches that the injecting of settings takes place after the operating system of the target computing system is already installed such that the operating system of the target computing system can control the installation of the settings and the settings are applied to the operating system. Thus, the prior art, as described in detail hereinafter, do not operate (and are not structured to operate) in a manner corresponding to the applicant's claimed invention.

*Claim Rejections – 35 U.S.C. § 102*

Claims 1-16, 27-34 and 36-42 were rejected under 35 U.S.C. § 102 (e) as being anticipated by Bowler et al., U. S. Patent Application No. 2002/0174329 ("Bowler reference"). Applicants respectfully disagree. Applicants argue that the Bowler reference fails to teach or suggest each and every element of the invention because the Bowler reference fails to teach or suggest merging of operating system or application program, not configuration settings, with update content before installation of the operating system or application program.

Amended claim 1 recites:

identifying update content related to the operating system component before installing the operating system component on the destination machine from one or more installation media, said operating system being stored on the installation media and being adapted for installation on the destination machine from the installation media; obtaining the identified update content from one or more update media, said update media being remote from the destination machine; merging the update content with the operating system component stored on the installation media to create an updated operating system component; and installing the updated operating system component on the destination machine.

Applicants assert that the configuration settings of the Bowler reference are not an operating system or the application program of the present invention because the configuration settings are injected so as to apply to the application programs or operating system of the target computing system. (See also Bowler, Abstract, paragraphs 58-70). Nowhere does the Bowler reference teach or suggest that the configuration settings are application programs or operating system software. For example, "the Network object 62 may instead include **configuration settings that 'configure the operating system 34'**"... paragraph 61; and "the Application object 68 includes configuration settings of applications"....; paragraph 67. As such, the Bowler reference specifically teaches away from embodiments of the present invention.

In addition, Applicants argue that the Bowler reference fails to anticipate the invention because the Bowler reference teaches or suggests that the transitioning of settings is done **after** the operating system of the target computing system has already been installed. Applicants assert that, under Bowler, the operating system of the target computing system executes the injection application, which infuses the transitioned settings into the target computing system, to apply the transitioned settings.

In the contrary, amended claim 1 recites that the update content is merged with the operating system that is to be installed on the destination machine. In other words, the operating system is not installed until after it is merged with the update content such that when the operating system is installed, the operating system includes the update content. The fact that Bowler reference discloses that the user may resolve conflicts as files are being selected before the files are transitioned to a target computing system is unrelated to the present invention.

Moreover, with regards to the rejection of claim 10 (Office action, page 6) where the Examiner cited that the Bowler reference discloses "updated versions of operating systems, new software applications and other improved features" (Bowler, p. 1, col. L:35-37), Applicants argue that such discussion merely discloses the contents of modern operating systems or application programs and is otherwise unrelated to the Bowler reference.

As such, the Bowler reference cannot anticipate each and every element as set forth in amended independent claim 1. Claims 2-16 and 40-42 depend from claim 1. As such, the Bowler reference cannot anticipate each and every element as set forth in dependent claims 2-16 for at least the same reasons that the Bowler reference does not anticipate the amended independent claim 1.

Amended claim 27 recites, in part: "**a publishing component for identifying update content related to the operating system before installing the operating system on the destination machine ... and an installation component for installing the updated operating system.**" Applicants submit that the Bowler reference fails to teach or suggest at least these aspects of the present invention. Therefore, the Bowler reference cannot anticipate each and every element as set forth in amended independent claim 27. Claims 28-37 depend from claim 27. As such, the Bowler reference cannot anticipate each and every element as set forth in dependent claims 28-37 for at least the same reasons that the Bowler reference does not anticipate the amended independent claim 27.

Amended claim 38 recites "**means for identifying update content relating to the application program stored on one or more installation media, said application program being adapted for installation on a destination machine; and means for obtaining the update content; means for merging the update content..., said updated application program being created before the application is installed on the destination machine.**" Applicants submit that the Bowler reference fails to teach or suggest at least these aspects of the present invention because it is the

target computing system's application program (i.e., operating system), which controls the injection of configuration settings to the target computing system **after** the application program is installed. Therefore, the Bowler reference cannot anticipate each and every element as set forth in amended independent claim 38. Claim 39 depends from claim 38. As such, the Bowler reference cannot anticipate each and every element as set forth in dependent claim 39 for at least the same reasons that the Bowler reference does not anticipate the amended independent claim 38.

### CONCLUSION

For at least the reasons noted above, Applicants respectfully submit that claims 1-16 and 27-42 are in condition for allowance and respectfully requests favorable reconsideration of this application. Although the prior art made of record and not relied upon may be considered pertinent to the disclosure, none of these references anticipates or makes obvious the recited invention. The fact that Applicants may not have specifically traversed any particular assertion by the Office should not be construed as indicating Applicants' agreement therewith.

**The Applicants wish to expedite prosecution of this application. If the Examiner deems the claims as amended to not be in condition for allowance, the Examiner is invited and encouraged to telephone the undersigned to discuss making an Examiner's amendment to place the claims in condition for allowance.**

The Commissioner is hereby authorized to charge any deficiency or overpayment of any required fee during the entire pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted,



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ATY/JJB/cjl

# PRESENT INVENTION

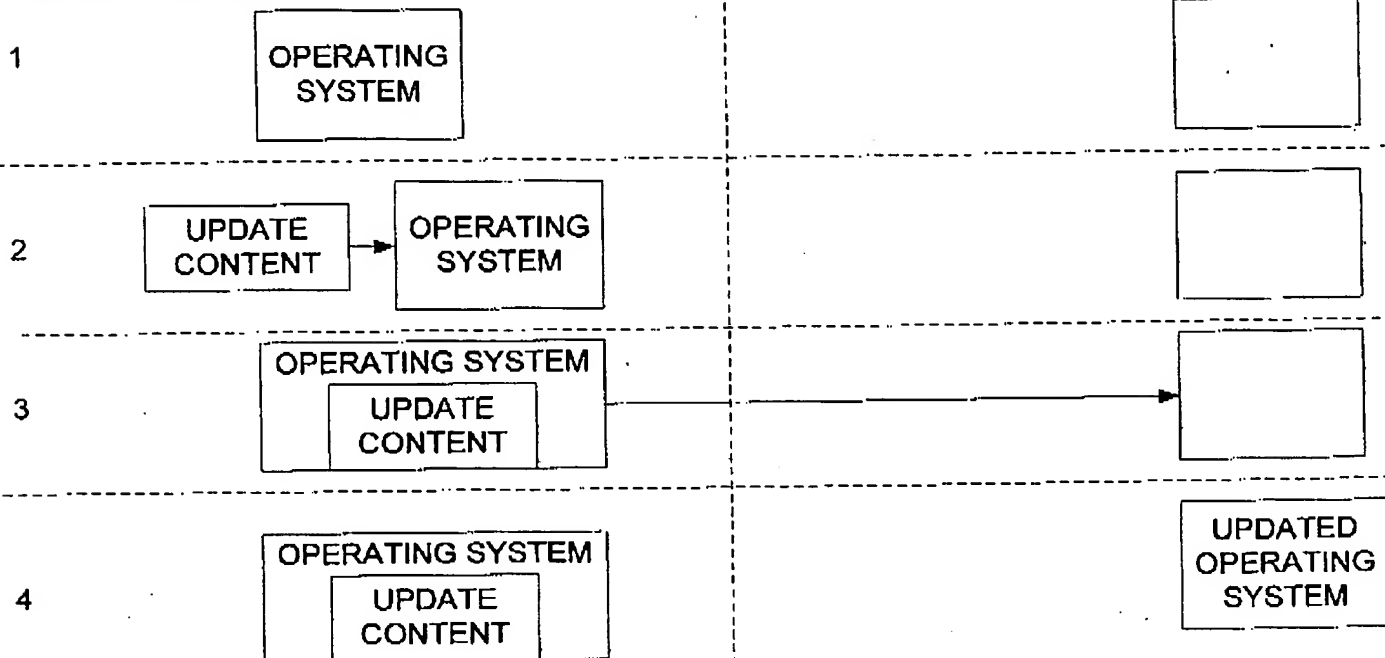
EXAMINER FOWLKES

10/044,570

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## INSTALLATION MEDIA

## DESTINATION MACHINE



# BOWLER REFERENCE

## SOURCE COMPUTING SYSTEM

## TARGET COMPUTING SYSTEM

